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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

FLOYD L. RICHARDSON,

Defendant and Appellant.

B207326

(Los Angeles County
Super. Ct. No. TA091877)

APPEAL from a judgment of the Superior Court of Los Angeles County,
William R. Chidsey, Judge. Affirmed.

Tracy A. Rogers, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.

Floyd L. Richardson appeals from the judgment entered following a jury trial in which he was convicted of possession of a firearm by a felon, count 1 (Pen. Code, § 12021, subd. (a)(1)), and carrying a loaded firearm, count 2 (Pen. Code, § 12031, subd. (a)(1)).¹ He was found not guilty of possession of a firearm with identification numbers removed, count 3 (Pen. Code, § 12094, subd. (a)). He was sentenced to prison for the upper term of three years on count 1 and sentence on count 2 was stayed pursuant to Penal Code section 654.²

Appellant's *Pitchess*³ motion was granted. Following an in camera hearing, the court concluded there was one discoverable complaint.

On the People's motion, allegations that appellant had six prior convictions and served six prior prison terms within the meaning of Penal Code section 667.5, subdivision (b) were stricken.

The evidence at trial established that on July 25, 2007, at approximately 11:45 p.m., Los Angeles Deputy Sheriff Joaquin Rincon was on patrol with two partners, Deputy Darell Edwards and Deputy Daniel Whitten, in the area of Mona Boulevard and Imperial Highway in Los Angeles when he saw a tan Tahoe vehicle without a front license plate make an illegal U-turn. Deputy Rincon conducted a traffic stop and approached the stopped vehicle on the passenger side. Deputy Edwards approached on the driver's side and Deputy Whitten stayed "at a safeguard position to the rear of the

¹ For purposes of these two offenses, appellant admitted that on May 27, 1993, he was convicted of possessing a firearm, having suffered a prior felony conviction in violation of Penal Code section 12022, subdivision (1)(a). Additionally, he admitted that on March 27, 1989, he was convicted of two counts of possession for sale of a controlled substance (Health & Saf. Code, § 11351), one count of possession for sale of cocaine base (Health & Saf. Code, § 11351.5), opening or maintaining an unlawful place to sell, give away or use a controlled substance (Health & Saf. Code, § 11366), and conspiracy to commit a crime (Pen. Code, § 182).

² The court stated it was sentencing appellant to the upper term based upon the totality of all factors including appellant's criminal history.

³ *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

Tahoe” to “look out for any possible sniper type of activity. . . .” When Deputy Rincon looked into the vehicle, he saw appellant put a pistol into the vehicle’s glove box. Deputy Edwards saw appellant lean over towards the passenger portion of the vehicle with a black handgun in his right hand. Appellant’s front passenger was Randy Wells and his rear passenger was Leroy Shelton. After the occupants of the Tahoe were taken out of the vehicle and secured, Deputy Rincon retrieved the firearm from the glove box. He described the weapon as “a dark-colored long-barreled .22 caliber pistol revolver with obliterated serial numbers.” The revolver was loaded with six .22 caliber live rounds. No prints were recovered from the firearm.

Shelton was the registered owner of the vehicle, was determined not to be involved in any criminal activity, and was released. Wells was arrested for outstanding warrants. Appellant was arrested for the firearm violations. Appellant denied the weapon was his. At no time did Wells state the gun was his.

In defense, Wells testified he had been carrying the gun in his waistband and put it in the glove box because it was “getting to be a pain.” He had never shown his companions the gun and, to his knowledge, they had not seen it. The officers found the gun in the glove box after they had stopped the vehicle and pulled the occupants out. Wells said the gun belonged to him. Deputy Edwards said he did not believe him and thought the gun belonged to the driver. Wells was on probation and understood he potentially was subjecting himself to problems by admitting he had a gun.

Shelton testified he owned the Tahoe and on the night of the incident there was a license plate on the front of the truck. Deputy Whitten testified he observed the vehicle make a U-turn but did not believe the vehicle’s front license plate was off.

After review of the record, appellant’s court-appointed counsel filed an opening brief requesting this court to independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436, 441.

On October 22, 2008, we advised appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. No response has been received to date.

We have examined the entire record and are satisfied that no arguable issues exist, and that appellant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113.)

DISPOSITION

The judgment is affirmed.

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MANELLA, J.

We concur:

EPSTEIN, P. J.

SUZUKAWA, J.